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**CHAPTER 12-500 FRANCISE TAX BOARD (FTB) CHILD SUPPORT
COLLECTION PROGRAM REGULATIONS**

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CHAPTER 12-500 FRANCHISE TAX BOARD (FTB) CHILD SUPPORT COLLECTION PROGRAM REGULATIONS**12-501 DEFINITIONS**

- .1 Definitions of terms used in Chapter 12-500, which are common to the Child Support Enforcement Program, are found at Sections 12-101, 12-301, 12-601, and 12-701.
- .2 When used as a term specific to Chapter 12-500:
- (a) Reserved
 - (b) Reserved
 - (c) (1) "Compliance with a judgement or order for support" means that, as set forth in a judgement or order for child or family support: the obligor is no more than 30 calendar days in arrears in making payments in full for current support; or is making periodic payments in full, whether court-ordered or by agreement with the district attorney, on a support arrearage; or is making periodic payments in full, whether court-ordered or by agreement with the district attorney, on a judgement for reimbursement for public assistance; or has obtained a judicial finding that equitable estoppel as provided in statute or case law precludes enforcement of the order.
 - (d) Reserved
 - (e) Reserved
 - (f) (1) A Franchise Tax Board (FTB) Child Support Collection Program \cong -- means the program whereby district attorneys refer child support cases to the FTB for collection in the same manner the FTB collects delinquent tax obligations. The FTB Child Support Collection Program is distinct and separate from the FTB Tax Refund Intercept Program regulated at Chapter 12-700.
 - (g) Reserved
 - (h) (1) A Hardship \cong -- For purposes of administering the FTB Child Support Collection Program, is defined in Revenue and Taxation Code Section 19271(d).

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- (A) Revenue and Taxation Code Section 19271(d) defines hardship to mean a collection action that would cause undue financial hardship to the obligated parent, would threaten the health or welfare of the obligated parent or his or her family, or would cause undue irreparable loss to the obligated parent.

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- (i) Reserved
- (j) Reserved
- (k) Reserved
- (l) Reserved
- (m) Reserved
- (n) Reserved
- (o) Reserved
- (p) Reserved
- (q) Reserved
- (r) Reserved
- (s) (1) ASuspend Collection Action≡ -- means that a wage levy, bank levy, or other collection action will remain in effect, but the FTB will not collect from those sources until further instructions are provided by the district attorney.

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- (A) Example 1: To suspend collection action on a bank levy, the FTB informs the financial institution to Afreeze an account for the amount of the levy. The bank will not withdraw funds from that account until it receives instructions from the FTB, and the noncustodial parent cannot withdraw the frozen funds.
- (B) Example 2: To suspend collection action on a wage levy, the FTB informs the employer that the wage levy is enforceable, but wages should not be withheld until the employer is provided with further instructions from the FTB.

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- (t) Reserved
- (u) Reserved
- (w) Reserved
- (x) Reserved
- (y) Reserved
- (z) Reserved

NOTE: Authority cited: Sections 10553, 10554, 11475, and 11479.5, Welfare and Institutions Code. Reference: Section 11350.6, Welfare and Institutions Code; 45 CFR 302.12; and Sections 19271 and 19271.5(a), Revenue and Taxation Code.

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CHILD SUPPORT PROGRAM		
Regulations	FTB CHILD SUPPORT COLLECTION PROGRAM	12-510 (Cont.)
12-505	GENERAL REQUIREMENTS	12-505
.1	District attorneys shall refer child support cases to the FTB Child Support Collection Program for collection in accordance with the provisions of Section 12-510.	
.2	District attorneys who apply for, and are granted an exemption from participating in the FTB Child Support Collection Program pursuant to Section 19271(k) of the Revenue and Taxation Code are not subject to any of the requirements of Chapter 12-500, et seq.	
.3	The county district attorney shall exchange program information with the FTB in the manner agreed to by the FTB and the district attorney.	
.4	The district attorney shall distribute all collections received from the FTB Child Support Collection Program in accordance with Sections 12-101, 12-108, and 12-225.	
.5	Following the referral of a case to the FTB, a district attorney shall continue to be responsible for complying with state and federal Title IV-D Child Support Program requirements.	
.6	A district attorney may withdraw a case referred to the FTB when the conditions specified in Section 12-510.3 or Section 12-510.4 exist.	
NOTE: Authority cited: Sections 10553, 10554, 11475, and 11479.5, Welfare and Institutions Code. Reference: 45 CFR 303 et seq.; and Sections 19271 and 19272(c), Revenue and Taxation Code.		
12-510	CASE SUBMISSION STANDARDS	12-510
.1	The district attorney shall refer any Title IV-D case which meets the following criteria:	
.11	Payment due has not been received following the expiration of 90 days from the date payment is due.	
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.111	As referenced in 45 CFR 303.6 and Section 12-107 where partial payments are addressed, the time frame for counting the 90 days would begin when an amount equal to at least one month's support is delinquent.	
.112	As referenced in Section 12-510.52, current FTB policy requires district attorneys to submit balance updates at least monthly.	
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12-510	CASE SUBMISSION STANDARDS	12-510
	(Continued)	

- .12 If there is a child support delinquency at the time the case is opened by the district attorney, the case shall be referred to the Franchise Tax Board no later than 90 days after the receipt of the case by the district attorney.
- .13 The case does not meet the exemption criteria specified in Section 12-510.3 or Section 12-510.4.
- .2 The district attorney may refer any Title IV-D case which meets the following criteria:
 - .21 The case contains a child support order and either of the following:
 - .211 The case contains a child support obligation that is 30 days or more past due; or
 - .212 The case is not delinquent, subject to the restrictions of Section 19271.5 of the Revenue and Taxation Code.
- .3 A district attorney shall not refer delinquent cases that conform to the provisions of Revenue and Taxation Code Section 19271(e)(3).

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- .31 Revenue and Taxation Code Section 19271(e)(3) states that the district attorney shall not refer or the FTB collect on delinquent cases referred to the FTB Child Support Collection Program if the following conditions exist: 1) a court has ordered an obligor to make scheduled payments on a child support arrearages obligation and 2) the obligor is in compliance with a judgement or order for support as defined in Section 12-501.2(c)(1).

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- .4 A case that meets the criteria specified in Section 12-510.1 need not be referred to FTB if any of the following conditions exist:
 - .41 An earnings assignment order or a notice of assignment has been served on the obligated parent's employer and court-ordered support is being paid pursuant to the earnings assignment order or the notice of assignment, or at least 50 percent of the obligated parent's earnings are being withheld for support.
 - .42 A jurisdiction outside this state is enforcing the support order.

12-510	CASE SUBMISSION STANDARDS (Continued)	12-510
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- .5 After referring a case, the district attorney shall provide the FTB with balance updates in accordance with the FTB's criteria for submitting that information specified in the AChild Support Collection Program County Minimum Requirements.≡

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- .51 Current FTB policy requires that, subsequent to the referral of a case, a district attorney shall notify the FTB within two working days of becoming aware of a case balance decrease of 25 percent, or \$1,000, whichever is greater.
- .52 Current FTB policy requires district attorneys to submit balance updates at least monthly.

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Regulations	CHILD SUPPORT PROGRAM FTB CHILD SUPPORT COLLECTION PROGRAM	12-515 (Cont.)
12-510	CASE SUBMISSION STANDARDS (Continued)	12-510
NOTE: Authority cited: Sections 10553, 10554, 11475, and 11479.5, Welfare and Institutions Code. Reference: Section 11350.6, Welfare and Institutions Code; Sections 19271(a) and (e) and 19271.5, Revenue and Taxation Code; and Section 4722(a), Family Code.		
12-515	COMPLAINTS	12-515
.1	When the FTB or a noncustodial parent contacts the district attorney pertaining to a noncustodial parent's complaint that he/she conforms to the provisions of Section 12-510.3, the district attorney shall take the following action(s):	
.11	If the district attorney is unable to determine whether the conditions of Section 12-510.3 are met within one working day, the district attorney shall immediately notify the FTB to temporarily suspend collection action on the case until further instructions are provided.	
.12	If the complaint is determined to be valid, the district attorney shall notify the FTB to cease all collection action and immediately return the case.	
.2	If a noncustodial parent requests relief from collection of his or her support obligation through the FTB Child Support Collection Program because of a claim of hardship, the district attorney shall review the case and make a determination on the hardship claim as follows:	
.21	The burden of producing evidence in support of a claim of hardship shall be on the noncustodial parent.	
.22	Upon initial contact from the noncustodial parent, the district attorney shall inform him or her of the following:	
.221	That the noncustodial parent is responsible for providing any documentation, if requested, that is necessary for the district attorney to make a hardship determination; and	
.222	That the claim of hardship may be denied if documentation requested by the district attorney is not provided within a reasonable time, not to exceed 15 days of the date of the request.	
.23	The noncustodial parent shall be informed that the district attorney will attempt to make a determination concerning the claim of hardship within five working days of receipt of the claim and the requested documentation, and that the five-day time frame begins upon the district attorney's receipt of the requested documentation.	
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12-515 (Cont.)	CHILD SUPPORT PROGRAM FTB CHILD SUPPORT COLLECTION PROGRAM	Regulations
12-515	COMPLAINTS (Continued)	12-515
.24	To make a determination about a claim of hardship, the district attorney shall:	
.241	Review documentation provided by the noncustodial parent.	
.242	Consider the examples of circumstances evidencing hardship provided in Family Code Section 4071.	
.25	If the district attorney cannot make a determination of the claim of hardship within five working days of receiving documentation from the noncustodial parent, the district attorney shall advise the FTB to suspend collection action until further notice. (See definition of ASuspend Collection Action≡ at Section 12-501.2(s)(1).)	
.26	The district attorney shall make a determination on a claim of hardship, in compliance with Section 706.075 of the Code of Civil Procedure, within 15 days of receiving the claim and the requested documentation, or the district attorney must withdraw the case from the FTB Child Support Collection Program until such time that the hardship determination is made.	
.261	If a delay of a determination of a claim of hardship is due to the noncustodial parent=s failure to provide the requested documentation, the district attorney may proceed with collection action on the case.	
.262	If it is determined that a hardship exists, the district attorney may withdraw the case, notify the FTB to reduce the amount of money being withheld through a wage levy, and/or reduce the amount of money to be withheld from a lump sum levy.	
(a)	The FTB shall be informed of the hardship determination and any changes in collection action within five working days of the date of the determination, or by the last day of the 15-day time frame defined at Section 12-515.26, whichever occurs first.	
.263	The noncustodial parent shall be notified in writing of the results of the district attorney=s determination within 15 working days of that determination.	
(a)	The notice shall include information concerning the noncustodial parent=s right to seek a review of the district attorney=s determination in court, and shall include information pertaining to any time limits within which a request for review must be filed with the court.	
.3	If a noncustodial parent challenges the referral of his or her case to the FTB Child Support Collection Program because of a dispute about the existence of, or the amount of, a past due balance, the district attorney shall make a determination about the disputed balance in accordance with the following:	

Regulations	CHILD SUPPORT PROGRAM FTB CHILD SUPPORT COLLECTION PROGRAM	12-515 (Cont.)
12-515	COMPLAINTS (Continued)	12-515
.31	The burden of producing evidence concerning a disputed balance shall be on the noncustodial parent.	
.32	Upon initial contact from the noncustodial parent, the district attorney shall inform him or her of the following:	
.321	That the noncustodial parent is responsible for providing any documentation or proof of payment, if requested, that is necessary for the district attorney to make a determination about the disputed balance; and	
.322	That the challenge to the existence of, or the amount of, a past due balance may be denied if documentation requested by the district attorney is not provided within a reasonable time, not to exceed 15 days from the date of the request.	
.33	The noncustodial parent shall be informed of the following:	
.331	That the district attorney will attempt to make a determination about the existence of, or the amount of, a past due balance within five working days of receipt of the claim and the requested documentation or proof of payment; and	
.332	That the five-day time frame begins upon the district attorney=s receipt of the requested documentation.	
.34	To make a determination about the existence of, or the amount of, a disputed balance, the district attorney shall review documentation provided by the noncustodial parent and review the noncustodial parent=s case file payment history.	
.341	If the district attorney cannot determine whether a past due balance exists within five working days of receipt of documentation from the noncustodial parent, the district attorney shall advise the FTB to suspend collection action until further notice. (See definition of ASuspend Collection Action≡ at Section 12-501.2(s)(1).)	
	(a) The district attorney shall make a determination concerning the disputed past due balance, in compliance with Code of Civil Procedure Section 706.075, within 15 days of initial contact from the noncustodial parent and receipt of all requested documentation, or the district attorney must withdraw the case from the FTB Child Support Collection Program until such time that a determination is made concerning the disputed past due balance.	
	(b) If it is determined that no past due balance exists, the district attorney shall immediately withdraw the case from the FTB Child Support Collection Program.	
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12-515	COMPLAINTS (Continued)	12-515
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- .342 If the district attorney cannot make a determination about a disputed portion of a past due balance within five working days of receipt of documentation from the noncustodial parent, the district attorney shall advise the FTB to suspend collection action on the disputed amount until further notice. (See definition of ASuspend Collection Action≡ at Section 12-501.2(s)(1).)
- (a) Within 15 days of initial contact from the noncustodial parent and receipt of all requested documentation, the district attorney shall make a determination concerning the disputed portion of a past due balance, or the district attorney must notify the FTB of a decrease in the past due balance proportionate to the disputed balance amount by the last day of the 15-day time frame.
- (b) If it is determined that the past due balance is less than the balance amount referred to the FTB, the district attorney shall inform the FTB of the balance decrease within five working days of the date of the determination, or by the last day of the 15-day time frame defined at Section 12-515.342(a), whichever occurs first.
- .35 If a determination concerning the existence of, or the amount of, a disputed balance is delayed due to the noncustodial parent=s failure to provide requested documentation or proof of payment, the district attorney may proceed with collection action on the case.
- .36 The noncustodial parent shall be notified in writing of the results of the district attorney=s determination within 15 working days of that determination.
- .361 The notice shall include information concerning the noncustodial parent=s right to seek a review of the district attorney=s determination in court, and shall include information pertaining to any time limits within which a request for review must be filed with the court.

NOTE: Authority cited: Sections 10553, 10554, 11475, and 11479.5, Welfare and Institutions Code. Reference: 45 CFR 303.72; Section 19271, Revenue and Taxation Code; Section 12419.5, Government Code; Sections 706.051 and 706.075, Code of Civil Procedure; and Section 4071, Family Code.

12-520	OVER COLLECTIONS	12-520
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- .1 If a collection occurs in excess of the past due balance amount, and state and federal support distribution requirements are satisfied, the district attorney shall reimburse the over paid amount to the noncustodial parent.
 - .11 The reimbursement shall be issued within 15 working days of the day the district attorney determined the amount due the noncustodial parent.
 - .12 When an over collection is refunded to the noncustodial parent and is returned by the post office as undeliverable, the district attorney shall:
 - .121 Attempt to find a current address through standard locate sources.
 - .122 Deposit and retain the undeliverable over collection in a trust fund until one of the following occurs:
 - (a) The location of the noncustodial parent becomes known to the district attorney and the amount of the over collection is refunded to the noncustodial parent; or
 - (b) The undeliverable over collection has remained in the trust fund for three years.

NOTE: Authority cited: Sections 10553, 10554, 11475, and 11479.5, Welfare and Institutions Code. Reference: Section 50050, Government Code.